

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDDIE LEE THOMPSON,

Plaintiff,

Case No. 05-60208

v.

Hon. John Corbett O'Meara

FRANK G. TURNAGE,

Defendant.

**ORDER DENYING PLAINTIFF'S MOTION FOR RELIEF
FROM JUDGMENT AND MOTION FOR CERTIFICATE OF APPEALABILITY**

Before the court are Plaintiff's motion for relief from judgment, filed October 5, 2005, and Plaintiff's motion for a certificate of appealability, filed October 14, 2005. Plaintiff seeks relief from this court's September 22, 2005 Order of Summary Dismissal. The court dismissed Plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2) for failure to state a claim upon which relief may be granted.

To the extent Plaintiff is seeking reconsideration under LR 7.1(g)(3), or relief from judgment pursuant to Rule 60 of the Federal Rules of Civil Procedure, Plaintiff does not meet the standard for relief under either rule. Plaintiff's motions "merely present the same issues ruled upon by the court, either expressly or by reasonable implication," and do not demonstrate "a palpable defect by which the court and the parties have been misled." See LR 7.1(g)(3). Further, Plaintiff does not allege that any of the categories justifying relief pursuant to Rule 60(b) are applicable here, such as mistake, excusable neglect, fraud, or newly discovered

evidence.

Plaintiff's complaint, on its face, clearly does not state a claim for the reasons set forth in the court's September 22, 2005 Order of Summary Dismissal. Accordingly, any appeal of this Order or from the court's September 22, 2005 Order would not be taken in good faith. See 28 U.S.C. 1915(a)(3); Fed. R. App. P. 24(a)(3)(A).

Therefore, IT IS HEREBY ORDERED that Plaintiff's October 5, 2005 motion for relief from judgment is DENIED.

It is further ORDERED that Plaintiff's October 14, 2005 motion for certificate of appealability is DENIED.

s/John Corbett O'Meara
John Corbett O'Meara
United States District Judge

Dated: October 19, 2005